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EXAMINER

NGUYEN, CAM LINH T

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/042,403
Filing Date: January 09, 2002
Appellant(s): GODOY ET AL.

John Pivnichny
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/23/2009 appealing from the Office action mailed 10/21/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,018,627	IYENGAR	1-2000
5,873,094	TALATIK	2-1999
5,724,556	SOUDER	3-1998

(9) Grounds of Rejection

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The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1 – 3, 6 - 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iyengar et al (U.S. 6,018,627) in view of Kirit Talatik (U.S. 5,873,094).

♦ As per claim 1,

Iyengar discloses a method of updating business control data comprising:

- "Developing a model of business rules spanning a plurality of applications and building said rules into a common database using a common data administration application"

See Fig. 1 and 7, col. 3, lines 64 - 65, col. 4, lines 27 - 33. In particular:

- A "common database" corresponds to the "repository 20" that stored business information or enterprise modeling.

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- “A common data administration application” corresponds to the application that creates the business application such as in Fig. 2 – 9.
- "Business rules" corresponds to the "business modeling" (col. 8, lines 45 - 49). Business rules are derived from the legacy item which including pre-existed applications (col. 3, lines 58 - 63). This includes the meaning of "spanning plurality of application". And the repository stores all business rules and relationship between them (col. 4, lines 28 - 33). This data corresponds to the common data between applications.
- "Entering business control data into said common database using said common data administration application" See Fig. 7 - 9, col. 9, lines 23 - 48. "Business control data" corresponds to the "business logic data".
- "Disseminating to a plurality of applications, respective portions of said business control data according to said business rules" col. 3, lines 1 - 2, col. 12, lines 35 - 51.

Iyengar teaches that the components can be deployed in different environments (col. 11, lines 26 – 29); the deployment process involves verifying that the necessary support software is installed at the right level (col. 12, lines 35 – 36); a wizard can be used to deploy the software (col. 12, lines 44 – 45); and the packaged components are instrumented for the systems and application management by appropriate deployment hints and management hints (col. 12, lines 49 – 51). Clearly, Iyengar implicitly teaches about the instruction of how to deploy an application by using hints, wizard, or software code to verify all information/software is installed at a particular environment. Further, in the event that the “model having a data structure including a

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dissemination structure, and disseminating the data based on the dissemination structure” is not included in Iyengar, Talatik provides an example.

Talatik teaches an invention that “allow the users to create their own application directly from the business model” (col. 23, lines 42 - 45, Talatik). The model consists of plurality of flags (col. 3, lines 48 – 49) including “an instant propagation type flag indicates how to propagate the change of instant” (col. 4, lines 57 – 58 of Talatik). It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Talatik into the invention of Iyengar because both invention were available at the time and the combination would allow the user to have a custom application and also guarantee the integrity of the data when transferring between applications.

♦ As per claim 2,

- “Additional rules different from said business rules ... entering said business control data... database” See col. 27, lines 42 – 46 of Talatik.

♦ As per claims 6 - 7,

"Wherein said business control data is entered into said common database using a common data administration application" See Fig. 2B - 3, col. 7, lines 29 – 43 of Iyengar. "A common data administration application" corresponds to the application window 35.

"Wherein said common data administration application is adapted to receive input from logged on individuals and from an automated feed from a source system" See Fig. 1 of Iyengar. The "legacy integration" corresponds to the source system.

♦ As per claim 3,

- “Plurality of instances” See col. 5, lines 39 – col. 6, lines 2.

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♦ As per claims 8 - 9,

"Entering additional rules into said common data administration application" and

"Wherein said business control data is entered into said common database according to said additional rules" See Fig. 4 – 9 of Iyengar.

4. Claims 4 - 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iyengar et al (U.S. 6,018,627) in view of Kirit Talatik (U.S. 5,873,094) further in view of Souder et al (U.S. 5,724,556).

• As per claims 4 - 5,

Iyengar discloses a system for developing business application using the Unified Modeling Language (UML). However, Iyengar/Talatik does not clearly disclose wherein said plurality of instances run on a corresponding plurality of servers located in corresponding geographical locations; wherein said geographical locations are in disparate continents.

Referring to col. 1, lines 21 – 45, Iyengar teaches that each rule or business model can be applied to a particular environment. Iyengar also teaches that the deployment of component over the Internet (col. 11, lines 16 - 46). Clearly, Iyengar implicitly teaches about the uses of plurality of servers located in disparate continents by using the Internet. Therefore, when building the business rules, the rules must define the dissemination structure.

On the other hand, Souder et al (U.S. 5,724,556) discloses a distributed system that includes a distributed modeler for defining business models wherein the business model comprising business locations and the business functions that occur at each business location

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(See col. 11, lines 40 - 60, Souder). Souder discloses in Fig. 23 that each location only contains specified modules. The table in Fig. 23 corresponds to the structure in the instance application. The plurality of instance corresponds to the plurality of location in the table. Each instance can be located in different sites (col. 1, lines 29 -42, Souder).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Souder into the invention of Iyengar/Talatik because the combination would provide more control in accessing data in different nodes or locations (col. 4, lines 13 - 32, Souder).

(10) Response to Argument

* Appellant argues that the “**Talatik does not describe disseminating respective portions of business control data to a plurality of applications**” (page 5 of the brief). The Examiner respectfully disagrees.

Response:

The Federal Circuit has embraced a theory of prima facie obviousness for use in ex parte prosecution in the PTO. The prima facie case is a procedural tool that, as used in patent examination, means not only that the evidence of the prior art would reasonably allow the conclusion that the examiner seeks, but also that the prior art compels such a conclusion if the Appellant produces no evidence or argument to rebut it. See *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). In the instant case, the prior art compels the conclusion that the claimed invention is unpatentable under 35 U.S.C. §103(a) as set forth in the Final Office Action, mailed 10/21/2008, and reiterated above for convenience.

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Appellant's argument is unpersuasive because it attempts to show nonobviousness by attacking Talatik alone and nonobviousness cannot be established by attacking references individually. Where the rejection is based upon the teaching of a combination of references, as it is here, each reference must be read, not in isolation, but for what it fairly teaches in combination with the prior art as a whole. See *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As set forth in the 10/21/08 Final Office Action, the rejection of claims 1 – 3, 6 - 9 was made under 35 U.S.C. §103(a) as being unpatentable over the combination of Iyengar and Talatik; not Talatik alone.

Appellant fails to recognize the combination of the two systems that the Examiner provided. Specifically, the Examiner does not use the Talatik reference to teach the “disseminating respective portions of business control data to a plurality of application”. Instead, the Examiner provides the teaching of Iyengar for the “disseminating respective portions of business control data to a plurality of application,” which was then applied to the system of Talatik.

Second, the Examiner disagrees with Appellant's description of Talatik and its relationship to the claimed invention. Contrary to Appellant's assertions, Talatik's method, like that of the Appellant, is based on a data structure that including the disseminating structure. Talatik teaches a model of data structure that includes plurality of flags (col. 3, lines 48 - 49 of Talatik); one of the flag is "an instant propagation type flag indicates how to propagate the change of instant" (col. 4, lines 57 - 58 of Talatik). The Examiner just applies the Talatik for the teaching of a “model having a data structure including a dissemination structure, and disseminating the data based on the dissemination structure”. And in combination with the Iyengar, the combination

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would “disseminating respective portions of business control data to a plurality of application” using the data structure of “how to propagate” in Talatik and the deployment process of Iyengar.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/CamLinh Nguyen/

Primary Examiner, Art Unit 2161

Conferees:

/Mohammad Ali/

Supervisory Patent Examiner, Art Unit 2158

/Apu M Mofiz/

Supervisory Patent Examiner, Art Unit 2161